



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,313	04/29/2005	Jorg Deister	2002P16958	4765
24131 7590 02/03/2009 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER				
CHACKO, JOE				
ART UNIT		PAPER NUMBER		
2456				
MAIL DATE		DELIVERY MODE		
02/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,313

Applicant(s)

DEISTER ET AL.

Examiner

JOE CHACKO

Art Unit

2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to amendments filed 10/27/2008. Claims 1-4 have been cancelled. Claim 5 is newly added.

Response to Arguments

1. Applicant's arguments filed with respect to claim 5 have been fully considered but they are not persuasive.

Applicant argues that the Takahara et al. reference does not show "closing the time window by transmitting a S.sub.ON message to the data sources by the data sinks and simultaneously opening a reception window for receiving data messages when the time window is closed". In response to the Applicant's argument, the Examiner respectfully disagrees. The Takahara et al. reference does disclose a video packet transmission interval which is similar to the "time window" as described by the Applicant in the claim and this interval is closed by video stop command which is the same as the "S.sub.ON message" as described by the Applicant. This "video stop" command is sent from the communication terminal station to the communication management unit as described in Takahara et al. reference (column 6, lines 17-28) Then there is an interval opened up after receiving the video stop command, in which the arrival of a video resume command or communication end command is awaited during this time which is similar to the "reception window" that is opened in the limitation of the Applicant's claim. Therefore, contrary to the Applicant's argument, the Pittas et al. reference in view of Takahara et al. reference does read on the limitation of the Applicant's claim.

2. In response to applicant's argument that there is no suggestion to combine the Pittas et al. reference and the Takahara et al. reference with the Garcia-Luna-Aceves et al. reference, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Pittas et al. reference discloses a system wherein there is a plurality of data sources which are the data server and the individual workstations as they have provide retransmission of handshake signals to a plurality of data sinks that are other workstations. Pittas et al. reference defines these transmission of data as data bursts in view of Takahara et al. reference that does disclose a method to transmit data from a communication management unit to a communication terminal station using a video packet transmission interval which is similar to the "time window" described by the Applicant in the claim and this interval is closed by video stop command . The Takahara et al. reference teaches a "video stop" command which is sent from the communication terminal station to the communication management unit as described (column 6, lines 17-28) Then there is an interval opened up after receiving the video stop command, the arrival of a video resume command or communication end command is awaited during this time which is similar to the "reception window". The motivation behind this modification is to provide a transmission control method in multimedia information communication and in a multimedia communication terminal station when traffic load of a communication network becomes so high (Takahara et al., column 2, lines 12-16). The Garcia-Luna-Aceves et al. reference teaches a method of data transmission wherein sequence numbers are used control the ordering of data sent to the destination that is similar to the limitation in the Applicant's claim in which token numbers are used to keep the order of the data transmission packets when received at the data sinks. The motivation behind this modification is that ordering of packets using sequence numbers is to ensure reliability that guarantees that messages eventually arrive correctly at their destinations and atomicity guarantees that a message is received by all members of a multicast group . (Garcia-Luna-Aceves et al., [0033]) Therefore, contrary to the Applicant's argument, there is ample motivation to combine the Pittas et al. reference in view of the Takahara et al. reference in further view of Garcia-Luna-Aceves et al. reference.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Pittas et al. (U.S. Patent No. 5,296,936) in view of Takahara et al. (U.S. Patent No. 5,477,542) in further view of Garcia-Luna-Aceves et al. (U.S. Patent Pub No. 2002/0091846 A1)

As to **claim 5**, Pittas et al. discloses a method for ensuring the same order of messages in a plurality of data sinks (fig.1,workstations,[18]), according to the following steps:

transmitting data messages (data bursts) from a plurality of data sources (fig.1, 12, data server) with identical message contents to the plurality of data sinks (DS') in parallel and independently of one another; (column 4, lines 1-5)

In an analogous art, Takahara et al. discloses a method wherein providing a time window (column 5, lines 53-54; video packet transmission interval) in the data sinks (fig.2, 100, communication terminal station) for collection of the data messages from the data sources (column 5, lines 51-52; corresponding communication terminal stations); (column 5, lines 50-55; wherein the video data packet transmission is initialized and is collected at the communication terminal station and a predetermined initial value is set as the video packet transmission interval by the communication management unit;

closing the time window (column 5, lines 53-54; video packet transmission interval) by transmitting a S.sub.ON message (video stop command) to the data

sources (DQ) by the data sinks (DS) and simultaneously opening a reception window (column 6, lines 17-28; wherein there is an interval opened up after receiving the video stop command, the arrival of a video resume command or communication end command is awaited during this time) for receiving the data messages when the time window is closed;

closing the reception window (column 6, lines 17-28; wherein this interval is closed or ended by receiving a command) by transmitting a S.sub.OFF message (column 6, lines 25-28; wherein the communication management unit sends a communication end command is issued to the communication terminal station) to the data sinks (DS) by the data sources (DQ);

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Pittas et al. by incorporating a video packet transmission interval in the communication terminal station whereby video packet transmission is initialized and is collected at the communication terminal station and a predetermined initial value is set as the video packet transmission interval by the communication management unit and discloses a video stop command is transmitted to close the interval and then interval opened up after receiving the video stop command, the arrival of a video resume command or communication end command is awaited during this time as disclosed by Takahara et al. The motivation behind this modification is to provide a transmission control method in multimedia information communication and in a multimedia communication terminal station when traffic load of a communication network becomes so high (Takahara et al., column 2, lines 12-16)

Takahara et al. does discloses S.sub.ON message from the data sinks (DS) and S.sub.OFF messages from the data sources (DQ), but does not disclose the transmitted consecutive token number.

In an analogous art, Garcia-Luna-Aceves et al. does disclose a method wherein transmitting a consecutive token number ([0045]; sequence number) to the data source (DQ) with the message from the data sinks and sending the token number([0045]; sequence number) back to the data sinks (DS) with the message from the data source.

[[0045], where the multicasting a message from source to receiver is combined with ordering information such as sequence number or time-stamps)

At the time of the invention , it would have been obvious to a person of ordinary skilled in the art to modify Pittas et al.-Takahara et al by incorporating a sequence number for ordering the messages being sent from source to receiver as disclosed by Garcia-Luna-Aceves et al. The motivation behind this modification is that ordering of packets using sequence numbers is to ensure reliability that guarantees that messages eventually arrive correctly at their destinations and atomicity guarantees that a message is received by all members of a multicast group . (Garcia-Luna-Aceves et al., [0033])

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOE CHACKO whose telephone number is (571)270-3318. The examiner can normally be reached on Monday-Friday 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the

Art Unit: 2456

Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. C./

Examiner, Art Unit 2456

/Bunjoo Jaroenchonwanit/

Supervisory Patent Examiner, Art Unit 2456